

PATENT APPLICATION

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re application of

Docket No: Q64839

Pascal AGIN

Appln. No.: 09/878,269

Group Art Unit: 2616

Confirmation No.: 2987

Examiner: Bob A. PHUNKULH

Filed: June 12, 2001

For: METHOD OF CONTROLLING TRANSMISSION POWER IN A MOBILE RADIO
SYSTEM

REPLY BRIEF UNDER 37 C.F.R. § 41.41

MAIL STOP APPEAL BRIEF - PATENTS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

An Examiner's Answer was mailed on September 25, 2007. A further Examiner's Answer was mailed September 10, 2007, and it appears to be identical in every respect to the first Examiner's Answer. This Reply Brief is responsive to both.

ARGUMENT

The invention defined in claim 45 requires that, when the target value is changed, an anticipatory variation will be made to at least one of the transmission power of the data channel, the transmission power of the control channel and the offset of the transmission power of the control channel relative to the transmission power of the data channel, to obtain an anticipated variation of the data channel transmission power. As discussed in detail in the Appeal Brief filed April 9, 2007, Baker teaches variation of an adjustment step size, but does not teach an anticipatory variation of any of the three values that claim 45 requires be anticipatorily adjusted in response to target value variation.

In the Examiner's Answer, the examiner makes two points that are simply wrong. First, at page 4 of the Answer, the examiner explains that in rejecting claim 45 he is interpreting "target value variation" as variation *from* the target value. This is a concept somehow constructed out of whole cloth, with no support in the specification or the claim language. The claim says target value variation. Grammatically, that means variation *of* the target value. And that is the way it is very clearly used in the claim. And that is the way it is interpreted if read in light of the specification. It is improper for an examiner to decide the claim language does not fit the rationale for a rejection and then to simply decree that it says something else.

The examiner next refers to the discussion in Baker about making a fixed power control adjustment at the start of transmission. But the examiner has ignored the requirement in claim 45 that the anticipatory adjustment be made *"in the event of target value variation."* There is no

REPLY BRIEF UNDER 37 C.F.R. § 41.41
USSN 09/878,269

suggestion in Baker that the fixed power control adjustment at the start of the transmission be made in response to a variation of the target value.

The requirements of claim 45 are simple and clear. Baker does not teach what claim 45 recites. For the reasons discussed above and in the Appeal Brief, reversal of the rejection is again requested.

Respectfully submitted,

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

/DJCushing/
David J. Cushing
Registration No. 28,703

Date: September 23, 2007